
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
2007 JUN -6 P 3:19
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

: Case No. 2:07CV75 DAK

BY: _____
DEPUTY CLERK

Petitioner,

:

REPORT AND RECOMMENDATION

v.

:

DORA MOWER,

: Judge Dale A. Kimball
Magistrate Judge Brooke Wells

Respondent.

The United States of America filed a petition to enforce its November 30, 2006 IRS Summons ("the Summons") pursuant to 26 U.S.C. §§ 7402(b) and 7604(a). Judge Kimball issued an Order to Show Cause on February 27, 2007, which referred this matter to the undersigned under 28 U.S.C. § 636(b)(3).

In the Order to Show Cause ("OTSC"), Respondent was directed to file a written response supported by sworn affidavits to the United States' Petition to Enforce the Summons ("the Petition") within ten days of the OTSC being served upon him. The OTSC informed Respondent that only those issues raised in the written response and supported by sworn affidavits would be considered by the Court and that all allegations in the Petition not contested by the written response and sworn statements would be deemed admitted. The OTSC also directed the undersigned to convene a hearing on April 4, 2007 at 9:00 a.m. to hear any arguments that would assist the undersigned in determining whether Respondent has shown cause. At the hearing, the parties agreed to continue the matter until June 5, 2007 at 9:00 a.m. At the June 5, 2007 hearing, Respondent was represented by her counsel, Michael Holje, and the United States was represented by Jared C. Bennett, Assistant United States Attorney. Based on the arguments and representations presented in the Petition and at the above-mentioned hearing, the undersigned reports the following:

1. The United States carried its burden of proof to enforce the IRS Summons at issue. Respondent does not contest that the United States is entitled to have the IRS Summons enforced.

2. The parties agree that Respondent will provide the material requested in the IRS Summons by August 6, 2007, except for a financial statement, which Respondent shall provide to IRS within 30 days from the date that the District Court adopts this Report and Recommendation.

Consequently, the undersigned recommends that:

1. The District Court find that Respondent has failed to show cause why she should not be compelled to comply with the Summons; and

2. The District Court order Respondent to provide the material requested in the IRS Summons by August 6, 2007, except for a financial statement, which shall be provided to IRS within 30 days from the date that the District Court adopts this Report and Recommendation. The IRS offices are located at 50 South 200 East, Salt Lake City, Utah 84111.

Within 10 days after being served with a copy of this Report and Recommendation, a party may serve and file specific, written objections. A party may respond to another party's objections within 10 days after being served with a copy thereof. Pursuant to 28 U.S.C. § 636(b)(1)(C), the District Judge to whom this case is assigned shall make a de novo determination upon the record of any portion of the undersigned's disposition to which specific written objection has been made. The District Judge may accept, reject, or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

DATED this 6 day of June 2007.

BY THE COURT:

Brooke C. Wells
BROOKE WELLS, Magistrate Judge
United States District Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office for the District of Utah, and that a copy of the foregoing Report and Recommendation was e-mailed this 4th day of June 2007 to the following:

Michael T. Holje

mike@brownbradshaw.com,jennifer@brownbradshaw.com

/s/ Jared C. Bennett